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Newbury 1-21
67,108-216

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Newbury, et al.
Serial Number: 09/773,175
Filed: 01/31/2001
Group Art Unit: 2686
Examiner: Daniel, Jr., Willie J.
Title: SYSTEM AND METHOD FOR PERFORMING INTER-
LAYER HANDOFF IN A HIERARCHICAL CELLULAR
SYSTEM

REQUEST FOR RECONSIDERATION

Mail Stop AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

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Dear Sir:

This paper is responsive to the Office Action mailed on May 5, 2005.

There is no *prima facie* case of obviousness and none of Applicant's claims can be considered obvious. The proposed combination of *Leung, et al.* and *Ivanov, et al.* cannot be made. There is no motivation for making a combination when the proposed modification of the primary reference goes directly contrary to the teachings of that reference and undoes the intended result of that reference. In this instance, *Leung, et al.* expressly teaches that mobile units are responsible for collecting and processing a number of statistics so that they can be utilized by base stations of micro-cells or macro-cells without having the micro-cells or macro-cells or the associated network having to collect or process such statistics. The Examiner's proposed modification to *Leung, et al.* goes directly contrary to the teachings of that document and the combination cannot be made.

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For example, in column 1 at lines 43-51, *Leung, et al.* teaches, "there is a need for an improved arrangement for controlling the operation of cellular systems...and *not add* substantially to the processing burden which is placed on micro-cell and macro-cell base stations, and the network associated with the cellular system." (Emphasis added). Later, *Leung, et al.* teaches in column 2, beginning at line 9, "In existing cellular communications systems, a fixed network facilities is unable to collect and process mobility and teletraffic statistics for every mobile unit operating within the systems. This is particularly true if such data is to be collected and processed while the mobile units are engaged in existing calls and also while the mobile units are idle. Accordingly, existing cellular communications systems are unable to exploit such information in controlling the network resources. In the present invention, a number of statistics are collected and processed *by intelligent mobile units* such that they can be used to greatly improve efficiencies in resource management without undue additional burden on the network resources of the cellular communications systems." (Emphasis added).

Therefore, if one were to attempt to modify *Leung, et al.* as suggested by the Examiner, that would defeat *Leung, et al.*'s intended operation of having mobile stations gather statistics and providing those to the base stations. Such a modification is impossible under 35 U.S.C. §103. There is no motivation for making the proposed combination and no *prima facie* case of obviousness.

This case is in condition for allowance.


Applicant hereby petitions to extend the time for filing a response to the Office Action mailed May 5, 2005 for three months, the period to end on November 5, 2005. Applicant believes that additional fees in the amount of \$1,020.00 are required for a three month extension. The

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Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds in the amount of \$1,020.00, as well as for any additional fees or credit the account for any overpayment.

Respectfully submitted,

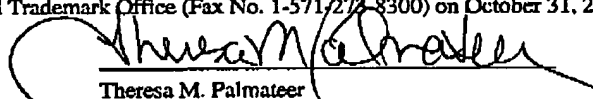
CARLSON, GASKEY & OLDS

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Dated: October 31, 2005

CERTIFICATE OF FACSIMILE

I hereby certify that this Request for Reconsideration, relative to Application Serial No. 09/773,175, is being facsimile transmitted to the Patent and Trademark Office (Fax No. 1-571/272-8300) on October 31, 2005.


Theresa M. Palmateer

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